

State of California

M E M O R A N D U M

TO: PERSONNEL MANAGEMENT LIAISONS **DATE:** September 24, 2002
REFERENCE CODE: 2002-060

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Personnel Officers
Personnel Transactions Supervisors
Return-to-Work/Claims Coordinators
Health and Safety Officers

FROM: Department of Personnel Administration
Benefits Division

SUBJECT: Industrial Disability Leave (IDL), Enhanced Industrial Disability Leave (EIDL), and Industrial Disability Leave with Supplementation (IDL/S)

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This PML reviews and clarifies policy related to Industrial Disability Leave (IDL), Enhanced Industrial Disability Leave (EIDL), and Industrial Disability Leave with Supplementation (IDL/S). It supersedes all previous directives and correspondence from the Department of Personnel Administration (DPA) related to administration of these benefits. Any changes made by departments pursuant to this memorandum should be done on a prospective basis.

We have attached answers to commonly asked questions about IDL, EIDL, and IDL/S, including a section on permanent intermittent employees.

Industrial Disability Leave

IDL is a salary continuation program established by the Berryhill Total Compensation Act of 1975. IDL is an alternative benefit program paid to eligible employees in lieu of Workers' Compensation Temporary Disability (TD). Government Code Sections 19869-19877.1 provide the legal authority for the IDL program. To qualify for IDL benefits, an employee must be eligible for workers' compensation benefits and be an active member of the California Public Employees'

Retirement System (CalPERS) or the California State Teachers' Retirement System (CalSTRS).

Prior to the start of IDL, the employee must serve a 24-hour waiting period (three calendar days). If an employee works less than full-time, the waiting period is prorated. The waiting period may begin the day following the date of injury and need not be consecutive days. Partial days of absence for doctor appointments or authorized periods of disability may be accumulated to equal full days and charged to the 24-hour waiting period.

The waiting period is waived if the employee is (1) hospitalized at any time as a result of the injury or illness, (2) unable to work for more than 14 calendar days, or (3) the injury is the result of a criminal act of violence. However, the aggregate hours over the 14-day period must, at a minimum, exceed the 24 hours needed to meet the three-calendar-day waiting period for a full-time employee and prorated for a fractional time-base employee.

IDL payments are based on the employee's current wages. For the first 22 working days of disability, an employee receives full net salary. Thereafter, the payments are based on two-thirds of the employee's normal gross salary without any reduction for taxes. Even though IDL is not taxable, the gross amount for IDL during the first 22 working days is reduced by the amounts that would have been taken for taxes (federal, Social Security/Medicare, and state). This is called the "reduced gross" and it is the amount reflected on the warrant register and the earnings statement. The reduced gross is calculated because the statutory intent of the IDL benefit is continuation of the employee's net compensation for a period while he or she is disabled and unable to work. It is not designed to provide the employee with more money on disability than he or she would otherwise make while working.

The only mandatory deduction taken from an IDL payment is the retirement contribution, which is based on the employee's actual gross income. In addition, IDL payments may be subject to the following deductions: survivor's benefits, accounts receivable, child support, spousal support, conservatee support, and CalPERS arrears contributions. All voluntary deductions continue, except for pre-taxed deductions, unless the employee cancels them. Pre-tax deductions (e.g., deferred compensation, tax-sheltered annuities, and health/dental premium co-pays) can only be deducted from IDL supplementation provided the supplementation gross is sufficient to cover the deductions.

IDL benefits are payable for a maximum of 52 weeks, or 365 calendar days, within a two-year period, from the first day of disability.

Any time paid as IDL, whether one hour or eight hours, constitutes one date of IDL applied to the maximum time limits.

An employee's eligibility for IDL ends if:

- The employee is no longer an active member of CalPERS or CalSTRS, due to separation or retirement;
- The employee refuses to participate in a vocational rehabilitation program if one is offered;
- The 365 days of IDL benefits are exhausted or the 2-year time limit is exceeded;
- The State Compensation Insurance Fund (SCIF) determines that the employee is no longer disabled from working based on the work-related injury or illness; or
- The employee's condition becomes permanent and stationary, which means that his or her condition has reached a point of maximum improvement.

An employee may appeal a decision regarding IDL benefits to the Workers' Compensation Appeals Board with regard to the basic timeframes, amounts, and penalties relevant to that portion of the IDL payment that would be equal to the TD payment it replaces. The Board only has jurisdiction over the timeframes an employee is entitled to TD, the amount of TD payable, and penalties for unnecessary delay in the IDL payment. The other rules and limitations governing IDL are not subject to the Board's jurisdiction, but may be subject to the grievance process.

Enhanced Industrial Disability Leave

EIDL was established in 1984 through memoranda of understanding between the State and exclusive representatives for rank-and-file employees in specific bargaining units. Government Code Section 19871.2 provides the authority for excluded employees to also receive this benefit. Currently, employees in Bargaining Units 1, 3, 4, 6, 7, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, and excluded employees are eligible for EIDL if they suffer a qualifying illness or injury.

To qualify for EIDL benefits, the injured employee must be temporarily disabled as a result of an injury incurred in the official performance of his or her duties. The injury must be a physical injury that has been directly and specifically caused by:

- Assault by an inmate, patient, ward, or parolee under the jurisdiction of the California Department of Corrections or the California Youth Authority;
- Responding to, returning from, or fighting an "active fire";
- A criminal act of violence against a peace officer who was performing in the line of duty (a criminal act of violence is an act which would constitute a misdemeanor or felony if pursued to conviction);
- An injury caused by a domestic animal while the peace officer was performing in the line of duty;
- Assault by a resident, inmate, patient, client or member under the jurisdiction of the Department of Developmental Services, the Department of Mental Health, the Department of Veterans' Affairs, or the Department of Education;
- An injury incurred while at a crime scene and while performing the official duties of a Department of Justice Bureau of Forensic Services Crime Scene Responder;
- Involvement in an automobile accident while performing a driving examination, or as a result of a criminal act of violence while performing the duties of a Department of Motor Vehicle Licensing Examiner; or
- Assault while performing the duties of the classification of Inspectors, Department of Consumer Affairs and Program Representative, or Bureau of Automotive Repair.

EIDL benefits only apply to physical injuries and medical complications directly related to one of the above circumstances. EIDL does not apply to presumptive, stress-related disabilities or physical disabilities of mental origin. Each appointing power or his/her designee has the final decision regarding an employee's eligibility for EIDL. Eligibility determinations are based on the specific circumstances of each case.

EIDL is an extension of IDL and has most of the same requirements. However, permanent intermittent employees in Bargaining Unit 6 may be entitled to EIDL even if they are not active CalPERS members. As with IDL, employees must serve a waiting period of three calendar days. The waiting period need not be consecutive days. Partial days of absence for doctor appointments or authorized periods of disability may be accumulated to equal full days and charged to the

24-working-hour waiting period. The waiting period is waived if the employee is (1) hospitalized at any time as a result of the injury or illness, (2) unable to work for more than 14 calendar days, or (3) the injury is the result of a criminal act of violence.

Since full IDL is paid for the first 22 working days of disability, EIDL begins on the 23rd working day of disability and continues payment as full IDL for the remaining period of eligibility up to a maximum of 365 days total within one year. EIDL can be received for up to three years, depending on specific provisions in each MOU. If the appointing power determines that an injured employee is no longer eligible for EIDL because the physical injury has healed, the employee may still be eligible to receive IDL for psychiatric disabilities associated with the qualifying event.

An employee can return to work part time and still receive EIDL for the remaining period of time off work, provided that this period is verified by SCIF.

Industrial Disability Leave with Supplementation

All excluded employees and rank-and-file employees in all Bargaining Units (except Bargaining Unit 5) who meet the eligibility requirements for IDL are eligible for IDL/S.

When an injury or illness has been determined to be work-related and workers' compensation benefits are approved, the Personnel Officer is required to send the employee an "Industrial Disability with Supplementation Information and Selection" form (STD 618S). The employee has 15 calendar days in which to choose IDL or IDL/S. The 15-calendar-day "election period" commences on the day the department informs the employee that he or she is eligible for workers' compensation benefits by providing him or her with the STD 618S. Employees who fail to choose IDL or IDL/S within 15 calendar days shall be placed on IDL without supplementation and forfeit the right to supplement IDL at any future time.

If an employee chooses IDL/S, he or she may choose to supplement at a level sufficient to yield an income which approximates his or her full net pay, or at a level that is less than that amount. Once the supplementation level is selected, the employee may opt to decrease the amount at any point in the future, but he or she may not increase the amount. Any subsequent reduction in the supplementation amount will be made on a prospective basis only. Supplementation levels can't include fractions of hours. The employee may terminate supplementation at any point. The effective date of any change will be the first day of the pay period following the pay period in which the change was submitted.

Leave credits needed for supplementation are drawn in the following order unless the employee requests a different order:

- Sick Leave
- Compensating Time Off (CTO)
- Vacation/Annual Leave
- Other Leave Credits (e.g., Personal Leave or Holiday Credits)

If an employee's leave credits fall below the selected supplementation amount, the supplementation should be reduced to the amount of available leave credits.

If an employee is on IDL, and a portion of the month and the amount of supplementation selected exceeds the amount necessary to obtain full net pay, the Personnel Office must adjust the supplementation amount to ensure the employee's disability payment does not exceed full net pay. "Full net pay" means the employee's gross salary minus federal and state taxes, Social Security/Medicare, and retirement. Miscellaneous deductions will not be factored into the calculation of the employee's full net pay. Income received from supplementation is taxable and will be reported on the employee's W-2 Form at the end of the year. Federal and state taxes will be based on the current flat tax rate.

Accounts receivable that the State has not already taken from the IDL pay, or any other pay for the pay period, will be taken from the supplementation pay to the extent there is a sufficient amount to do so. All established mandatory and voluntary deductions will be withheld from supplementation pay, if not already taken from another payment in the pay period and there is sufficient gross pay. For example, an employee who has a deferred compensation deduction would not have the deduction taken from the two-thirds IDL payment because you cannot defer taxes on tax-exempt income. However, if the supplementation gross is sufficient, the deferred compensation can be deducted from the supplementation payment. Employees must cancel any voluntary deductions that they do not wish to have withheld from supplementation pay.

FlexElect Enrollment

If an employee goes on IDL while enrolled in FlexElect and has chosen to receive the Cash Option, the cash option will remain in effect. He or she will receive a separate check for the Cash Option, which will be issued approximately one week after the IDL paycheck. If the employee is enrolled in either of the reimbursement accounts, the account deductions will cease for as long as the employee is on IDL. If the employee returns to regular pay within the FlexElect plan year, his or her reimbursement account deductions will resume. However, if the employee is on IDL/S, these

account deductions will resume only if the supplementation income is sufficient to cover them.

Additional questions regarding IDL, EIDL, or IDL/S should be directed as follows:

- For questions regarding the role of the State Compensation Insurance Fund and Vocational Rehabilitation requirements related to IDL, EIDL, and IDL/S, contact Shelby Wineinger, DPA Workers' Compensation and Safety Program, at (916) 445-9760 or by email at shelbywineinger@dpa.ca.gov.
- For questions regarding laws and rules, collective bargaining agreements, and to resolve complex personnel issues related to IDL, EIDL, and IDL/S, contact Clarice Pace, DPA Classification & Compensation Division, at (916) 324-0439 or by email at claricepace@dpa.ca.gov.
- For Disability Payroll Processing questions, contact the Disability Liaison Unit at the State Controller's Office at (916) 322-3619 or CALNET 492-3619.

Terri Westbrook, Chief
Benefits Division

QUESTIONS AND ANSWERS ABOUT IDL, EIDL, AND IDL/S

A. IDL Time Calculation and Eligibility Determination

1. Is the first day of disability for IDL the date of injury or the first day of lost time for the purpose of calculating the two-year period for IDL?

The first day of disability is the first day of lost time, not the date of injury. Since the day of injury is not part of the eligibility period for purpose of receiving IDL benefits, it would not be appropriate to include the date of injury as the beginning of the two-year period.

2. Is the time used on the date of injury picked up as administrative time off (ATO) only after the workers' compensation claim is approved?

No. This time is ATO even if the claim is not approved for workers' compensation benefits, if the employee was seen by a doctor on the date of injury. Supervisors should be directing employees to seek appropriate medical treatment, taking them to the doctor if necessary. Employees should not be released from work to go directly home without seeing a doctor.

3. What is the method of counting partial days of absence due to disability towards the three-calendar-day waiting period for IDL?

The three-calendar-day waiting period need not be consecutive or full days of absence. Partial days of absence relating to the disability shall be accumulated to 24 hours to fulfill the waiting period.

4. What is the method of counting partial days of absence due to disability towards the 14-day period for IDL?

Partial days of absence are to be counted as full days when determining the 14-day period. However, the aggregate hours over the 14-day period must, at a minimum, exceed the 24 hours needed to meet the three-calendar-day waiting period.

5. Can an injury date be effective after the IDL effective date?

Yes. In cases of cumulative trauma where the date of injury cannot be determined, SCIF designates the date of injury as the date the application of adjudication or Employee Claim for Workers' Compensation Benefits form is filed. When the first notice of injury is a Doctor's First Report, the date of examination will be used as the date of injury. In most of these cases, the IDL date would be prior to the designated injury date.

6. When an employee is on an alternate work schedule, such as 4/10/40, how many days should be counted for each ten-hour day of disability?

Any day on which the employee was scheduled to work, regardless of the length of time, is counted as one day, up to a maximum of 176 hours or 22 days, whichever comes first.

7. How are absences tracked for employees in Work Week Group E and SE who are exempt from the Fair Labor Standards Act (FLSA)?

Under the provisions of the FLSA, disability leave is a situation when an E or SE employee is required to track partial day absences. All lost time, including partial days (e.g., doctor appointments), must be tracked on the employee's timesheet. Any lost time during the delay period needs to be charged to the employee's leave credits. If the claim is accepted and SCIF verifies disability, you should restore leave credits used for absences or partial days and convert the disability days into IDL. Refer to PML 95-023 for more information regarding employees exempt from FLSA.

8. Should a teacher be taken off IDL during the summer when there are no academic days to be paid?

Yes. However, during the summer the employee would be entitled to TD without supplementation.

9. What is the length of time an employee may be entitled to EIDL?

An employee may be entitled to EIDL from the first day of lost time up to a maximum of one, two, or three years, depending on the specific terms established in the memorandum of understanding (MOU).

10. Must the department complete the STD 618S for every employee who is approved for IDL?

Yes. The department must complete the STD 618S for every employee who is approved for IDL, within 15 days from the receipt of disability verification from SCIF. The STD 618S is a key piece of documentation for both the employer and the employee that provides a basic explanation of the benefits and calculation of compensation.

11. If an employee incurred a work-related injury or illness at one department and transfers positions to another department, which department is responsible for paying IDL?

Each department is responsible for paying IDL during the periods of disability that occurred while the employee was working for that department.

For example, an employee works for a department from January 1, 2002, to July 1, 2002, and incurs a work-related injury. The employee then transfers to another department on July 2, 2002. A SCIF 3290 is received on August 1, 2002, which states the employee was disabled from May 1, 2002, through July 31, 2002. The original department is responsible for paying IDL from May 1, 2002, through July 1, 2002, and the employing department is responsible for paying IDL from July 2, 2002, through July 31, 2002.

B. Special Pay Provisions

1. Is an employee entitled to special pay when he or she is on IDL?

Yes. If the pay is ongoing, the employee's IDL calculation includes the special pay. However, if the special pay is task related (e.g., diving pay) and you must perform the task to receive the pay, IDL pay will include the special pay only if the employee was scheduled to perform the task. (Refer to Section 16

of the Pay Scales or Section G of the Payroll Procedure Manual.)

2. Is an employee on IDL entitled to shift differential?

Yes. The employee must have received a shift differential at the time of the injury. However, if there is a regular shift rotation and the employee remains on IDL when his or her shift would normally change to a shift without a differential, the IDL should be recalculated to exclude shift pay.

3. How is an employee compensated for holidays while receiving IDL?

Holidays are compensated in the employee's IDL payment. However, if a holiday falls on the employee's regular day off, the employee will accrue Holiday Credit. Consult the specific provisions of each MOU regarding treatment of Holiday Credit.

4. Can an employee who is in two State miscellaneous positions qualify for IDL in both positions?

Yes. If both positions are CalPERS-qualifying positions, the employee may receive IDL if he or she is disabled in both jobs as long as the total IDL compensation does not exceed the equivalent of one full-time position. The position with the higher time base is used for this calculation; if both positions are equal in time base, the higher salaried position is used. If the employee is in a full-time position and a part-time position, IDL is paid on the full-time position and TD is paid on the part-time position.

5. Can an employee who is in two State safety positions qualify for EIDL in both positions?

Yes. If the employee is disabled from working on both jobs, he or she is eligible for EIDL in both jobs if both of them are positions which qualify for EIDL.

6. Does an employee continue to make CalPERS contributions and earn full retirement credit while receiving IDL or TD?

If receiving IDL, an employee's full CalPERS contribution will be deducted from the IDL payment. The employee will continue to earn full retirement credits.

If receiving TD, an employee's CalPERS contributions will be deducted from the leave credits portion of his or her pay. The employee will earn CalPERS credit based on the amount deducted. For more information regarding retirement contributions, contact CalPERS at 1-800-352-2238.

C. Coordination with Other Benefits

1. Can employees supplement PD advances with leave credits under Labor Code Section 4653?

No. There is no statutory authority to supplement PD with leave credits.

2. Can employees supplement Vocational Rehabilitation Maintenance Allowance (VRMA) with leave credits?

Yes. Government Code Section 19863.1(a) was amended so that State employees may elect to supplement VRMA benefits with available leave credits (refer to PML 2000-004). Additionally, an injured employee may supplement VRMA benefits with any PD benefits received. PD benefits cannot be coordinated or offset by the employer. An employee's total income from VRMA and the supplementation can't exceed gross pay.

3. Can an employee use his or her sick leave in lieu of IDL if he or she does not qualify for IDL with supplementation or elects not to supplement?

No. Labor Code Section 4650 requires the State to pay at least the equivalent of TD to any employee with a qualifying injury. Since IDL is provided in lieu of TD, an employee must take the IDL benefit.

4. If an employee is injured prior to becoming a CalPERS member and becomes a member while on TD, can he or she elect to go on IDL?

No. The employee must remain on TD for the duration of the disability because he or she was not eligible for IDL on the date of injury.

5. Can an employee who is permanent and stationary (P&S) and has returned to full-time work with a PD rating use IDL for isolated days of physical therapy?

No. Once an employee is P&S, he or she is no longer eligible to receive IDL for the same injury.

6. Is it possible for an employee to receive IDL and NDI on the same date assuming that he or she qualifies for both benefits?

Yes. If the NDI benefit is greater than the IDL benefit that the employee is due for the day, the employee gets IDL and the balance due for NDI. Example: the IDL benefit is \$10 and the NDI benefit is \$19; the employee receives \$10 IDL and \$9 NDI.

7. Can an employee take a bereavement leave while on IDL?

Yes. The employee is entitled to bereavement leave when on IDL. The department should interrupt IDL and put the employee on bereavement leave for the appropriate period of time and then resume IDL.

8. Is an employee eligible for catastrophic leave while waiting for IDL to be approved or for supplementation of IDL?

Yes. An employee may be eligible for a department's catastrophic leave program if the nature of the illness or injury otherwise meets the criteria established by the department for catastrophic leave. Please check the employee's MOU.

9. If an employee is off on IDL and is eligible for a Merit Salary Adjustment (MSA), should the supervisor approve the pay increase?

Yes. An employee should receive the MSA, unless there is pre-existing documentation showing that the employee received prior notification of performance problems.

10. Can an employee attend jury duty while on IDL?

Yes, but the employee is bound by the same rules regarding jury duty. If the employee remits the jury duty fees to the State for each day served, he or she receives IDL pay. If the employee fails to remit the jury duty fees, the IDL should be suspended.

11. Can an employee who is on IDL change his or her marital status and dependents?

Changes may not be made to tax exemptions for the purpose of tax withholding, because Government Code section 19871 requires that IDL payments be based on the net salary at the time of the injury. However, marital status and dependents may be changed for the

purpose of providing proper health and dental benefit coverage.

12. An employee is receiving IDL with no supplementation along with FlexElect cash and then begins receiving TD. Can he or she receive FlexElect cash without TD supplementation?

No. In order to receive FlexElect cash, the employee needs to supplement his or her leave credits to generate a pay warrant from the State Controller's Office.

13. If an employee is on IDL/S and is attending a vocational rehabilitation program at a company that is paying him or her \$10 per hour, should the IDL benefit be reduced by the amount earned?

Yes. SCIF should make the department aware of any payment arrangements involved in the Vocational Rehabilitation Plan.

E. Discipline, Layoff, and Denial of IDL Benefits

1. Can an employee on IDL who subsequently demotes during the disability period retain his or her salary rate, or is the salary rate adjusted to reflect the demotion?

IDL should be adjusted to reflect the salary an employee would receive if the disability had not occurred. If the employee receives an increase in pay while on IDL, the benefit payment increases; if the employee receives a demotion, the IDL payment should be reduced.

2. Is an employee who is suspended because of an adverse action that is unrelated to his or her workers' compensation claim entitled to IDL during the suspension?

No. An employee who is suspended while on IDL should be switched to TD without supplementation during the period of the suspension. However, if possible, it is best to postpone any disciplinary action until the employee has returned to work from disability leave.

3. Does the time off on suspension count towards the IDL time limit?

No. The IDL may resume, without any loss in benefit levels, after the suspension has ended, with verification from SCIF that the employee is still temporarily disabled.

4. Is an employee who is terminated because of an adverse action entitled to IDL after the effective date of the termination?

No. IDL is a "disability leave" which provides for salary continuation. It is based on the assumption that the employee will eventually return to work. Termination is not a temporary absence and there is no expectation the employee will return to work, so there is no legal basis to provide salary continuation benefits.

5. How are employees on IDL to be treated if they are subject to layoff based on seniority?

Employees on IDL are subject to the same procedures as any other employees during a layoff. An employee on IDL should be noticed at the same time as other employees and advised of his or her employment options. IDL continues up until the actual date of layoff but terminates when the layoff is effective. After the layoff, the employee is entitled to receive TD without supplementation.

6. If SCIF retroactively disapproves IDL, does the department have to collect the overpayment?

Yes. Consistent with Government Code 19838, any overpayment of compensation and benefits is subject to the statute. Departments are obligated to set up an account receivable to collect the overpayment if the retroactive action occurs within the three-year statute of limitations on collections.

F. Permanent Intermittent (PI) Employees

1. How is IDL calculated for permanent intermittent (PI) employees with variable work schedules?

If the employee is scheduled to work in the future, the agency should compensate the employee for what he or she was scheduled to work. If the employee was not scheduled to work in the future, the agency should use the average number of hours worked each month for the

last 12 months. If the employee worked less than 12 pay periods, use the number of pay periods available to find an average as follows:

- a. Total the hours of all intermittent time paid for the previous 12 pay periods or pay periods available. Divide the total hours by the applicable number of pay periods to determine the average hours of pay each month.

Example: 1500 hrs. ÷ 12 pay periods = 125 average hrs.
Or

960 hrs. ÷ 6 pay periods = 160 average hrs.

- b. During the previous 12 pay periods, the employee worked a total of 1025 hours. However, the employee was furloughed and there were no hours worked during May, June, and July of this period.

Example: 1025 ÷ 9 = 114 average hrs.

If the employee is on a set schedule, do not go back 12 pay periods. Pay the employee based on what he or she was scheduled to work.

- c. If the employee's current time base is intermittent but the previous pay periods worked were on a full-time or part-time basis, convert the full or part-time pay periods to hours on the basis of 173.33 hours for full-time or the part-time fraction of 173.33 hours for each pay period. Add these numbers to determine hours worked and divide by the applicable number of pay periods to arrive at the average hours of pay each month.

If the employee's time base is indeterminate, the payment is based on the appointment agreement or an intermittent time base.

2. How many hours should a PI employee be credited or paid if he or she is on IDL?

The employee should be credited with the total number of hours actually scheduled to work or the average number of hours worked for the last 12 pay periods. If you need additional clarification consult section E409 of the Payroll Procedures Manual.

3. When a PI employee converts from IDL to TD, how do you convert the TD payment into hours each month to determine if the employee has reached the required 160 hours to earn leave credits and state service credits?

When an employee converts from IDL to TD, continue crediting the number of hours used for IDL. An employee is to receive accruals as if he or she was working. Therefore, a full-time employee is paid TD for the number of days that equal a qualifying month. The employee would receive state service and earn sick and vacation leave based on the qualifying time.

For PI employees who did not qualify for IDL, first determine if the employee is to be paid based on scheduled hours or average hours.

Next, using the copy of the warrant or the printout SCIF provided verifying the amount of time lost, determine the amount of working days that were lost. Multiply the number of days lost by the number of hours the employee would have been paid per day.

For example, if an employee was scheduled to work five hours a day and the TD check covered March 1, 2002, through March 16, 2002, the employee would receive 55 hours towards his or her earned hours (11 working days x 5 hours). You are giving the employee full credit for each day he or she would have worked had the injury or illness not occurred.

If the employee averages seven hours per day and the TD check covered March 1, 2002, through March 31, 2002, the employee would be credited for 154 hours towards his or her earned hours (22 working days x 7 hours).

4. If a department calculated average hours for IDL by going back 12 months and the employee worked some time in the current month, can the combined regular pay and IDL exceed the average?

Yes. Time actually worked in the current month does not affect the average past hours calculated for the IDL payment.

Example:

The employee normally works an average of 125 hours a month. The first five days of the month, the employee worked 40 hours. The employee goes on workers' compensation the last 17 work days of the month.

Average hours per day are 6 hours; 6 hours times 17 days = 102 hours. The 102 hours plus the 40 hours worked exceeds the 125-hour average.

The total hours can only exceed the average if an employee is working and on IDL/TD during the same pay period.

5. Does the 1500 hours start over at the beginning of the fiscal year?

The 1500 hours starts over at the discretion of the department and can be based on calendar year, fiscal year, or appointment date.

6. How do you calculate the 1500 hour cap on IDL for a PI employee? Do the hours include regular and IDL time?

If a department is monitoring an employee to a 1500-hour maximum, all hours, both regular pay and IDL, count toward the 1500 hours. Departments must verify how they monitor the 1500 hour cap. If the employee would have been furloughed upon reaching the 1500-hour cap, he or she should be converted to TD without supplementation. If the employee would have been reappointed, the employee would be put back on IDL.

7. If the PI employee is converted to TD after reaching the maximum IDL allotment (not furloughed or not at the 1500 hours), is he or she entitled to TD with supplementation?

Yes. Determine the number of hours to compensate the employee each month, then convert the SCIF payment to what it equals as hours. Supplementation can then be requested to achieve the average hours.

Example:

The employee is absent on TD the entire month of August 1999 (8/1 through 8/31). The department computes the employee's average hours at 140 hours per month. The employee receives a TD payment of \$70 per day for 31 calendar days, for a total of \$2,170. The employee's hourly rate is \$23.50 per hour.

Step A - Compute what the employee would have earned if not injured.

$$\$23.50 \times 140 \text{ hours} = \$3,290$$

Step B - Compute what the employee would need to supplement in order to equal the average.

\$3,290	Average employee would have earned.
<u>-2,170</u>	SCIF TD Payment
\$1,120	The difference can be supplemented with available leave credits.

8. If a PI employee has been off on IDL, then comes back to work and suffers a new injury, should the time on IDL be included when calculating a 12-month average?

Yes. Both regular time paid and IDL should be used to calculate the average.

9. If a PI employee is injured prior to becoming a CalPERS member and becomes a member while on TD, can he or she elect to go on IDL?

No. The employee must remain on TD for the duration of the disability because he or she was not eligible for IDL on the date of injury.

10. When a PI employee is approved for IDL and has received NDI during some of the preceding 12 months being using to calculate the average hours, how do you calculate the average hours?

You only add the hours worked and divide the total by the number of months in which the employee worked. Disregard the months the employee was on NDI.

For example, an employee was on NDI from 10/99 through 3/00. He or she was injured in 10/00. Twelve months back is 10/99 through 9/00. We add the hours worked for 4/00 through 9/00 and divide by 6, which is the number of months worked.

11. If an employee has multiple claims, how do you calculate the 1500 hours?

Each claim is subject to a maximum benefit of 365 calendar days within a two-year period. Regardless of the number of claims, PI employees cannot exceed 1500 hours in a fiscal, calendar, or appointment year. You calculate the 1500 hours by totaling all hours paid and subtracting them from the 1500-hour maximum.

12. Do you resume IDL the next fiscal, calendar, or appointment period until the employee reaches a maximum of 1500 per claim?

Yes. The IDL period is resumed until the PI employee reaches the maximum claim benefit of 365 calendar days within a two-year period. This is not to be confused with the 1500 hour maximum a PI employee can work per fiscal, calendar, or appointment year.

13. How many days of IDL is a PI employee entitled to per claim?

A PI employee is entitled 365 calendar days of IDL within a two-year period from the first day of disability for each claim.

14. An injured PI employee is given a release to return to modified work for four hours a day. Should the employee be scheduled to work his or her regular shift or only a four-hour shift?

The employee should be scheduled to work the amount of hours he or she would be expected to work had there not been a work-related injury. The employee should only work the number of hours approved by the doctor. The employee will receive the appropriate workers' compensation benefits for the remainder of hours.

15. For a PI employee, does TD count toward length of service, sick leave, annual leave, and vacation accrual?

Yes. TD counts towards the employee's length of service, sick leave, annual leave, and vacation accrual only when the employee would have otherwise been scheduled to work.

16. If you start paying a PI employee based on the 12-month average or projected number of hours that the employee would be working in the future, do you have to continue paying in that manner through the life of the claim?

IDL needs to be paid in the same way (12-month average or projected hours) through the life of a claim.

For example, some PI employees may want you to pay them based on the 12-month average after their hours

are cut because they receive less compensation using the projected hours.

17. When a holiday occurs in the pay period, how should the holiday credit be added for PI employees and employees on actual time worked?

For PI employees, the holiday credit should be added to the hours worked or average hours worked in the last 12 pay periods. For actual time worked employees, the holiday should be counted as one of the 194 working days.